



Public Notice

US Army Corps
of Engineers

Sacramento District
1325 J Street
Sacramento, CA 95814-2922

Number: 200550240

Date: December 20, 2005

Comments Due: January 19, 2006

SUBJECT: The U.S. Army Corps of Engineers, Sacramento District, (Corps) and Utah Division of Water Quality are evaluating a permit application to construct the 130-acre Mercer Bingham Junction project, which would result in approximately 5.87 and 2.6 acres permanent and temporary impacts, respectively, to waters of the United States, including wetlands, (waters) adjacent to the Jordan River. This notice is to inform interested parties of the proposed activity and to solicit comments. This notice may also be viewed at the Corps web site at <http://www.spk.usace.army.mil/regulatory.html>.

AUTHORITY: This application is being evaluated under Section 404 of the Clean Water Act for the discharge of dredged or fill material in waters of the United States and Section 401 for water quality certification.

APPLICANT: John D. Mercer
J.D. Mercer and Company
200 Brown Road, Suite 102
Fremont, California 94539
510-440-9190 x11

LOCATION: The Mercer Bingham Junction project site is located in Midvale in Section 23, Township 2 South, Range 1 West, Salt Lake County, Utah, and can be seen on the Midvale USGS Topographic Quadrangle. The site is bordered by 7200 South to the south, 700 West on the east and the Jordan River to the west.

PROJECT DESCRIPTION: The applicant is proposing to construct a mixed-use retail, commercial and high/medium density residential development on the approximately 130-acre project site. The proposed project would permanently fill 5.87 acres of wetlands and open water channels to construct two large "big box" retail stores, with 6-7 smaller retail buildings, one small commercial/professional building, 82 medium density residential buildings (townhomes, flats) and an apartment complex with eleven 3-story buildings. Midvale City mandates that 20 percent of this development (26 acres) be dedicated as open space, which explains why the design of the project is less dense than other developments similar in nature.

Additionally, the property is part of a Superfund site, with lead and arsenic-contaminated soils contained throughout the site. Approximately 2.6 acres of waters would be temporarily impacted during soil remediation measures required by the EPA in order to safely develop the site. The temporarily impacted wetlands would be regraded and replanted. Further, the temporarily

disturbed area is proposed to be the location of the compensatory mitigation site for the impacts associated with the proposed project.

The Midvale Slag facility is located to the south of the project site; this facility smelted ore from 1871 through 1958. In the 1960's, a wastewater treatment plant was constructed on the parcel to the south, although the settling ponds were located on the eastern half of the proposed project site. The treatment facility ceased operation in the mid-1980's. Also in the 1960's, the county established a landfill in the southwestern corner of the project site. Sand and gravel fill material from the I-215 construction in the 1980's covers the southeastern portion of the property.

The project site received wind-blown particulates, smelter fallout, and contaminants deposited through surface water from the main smelting facility to the south. Additionally, the deliberate placement of slag and possibly other smelter waste onto the project site to fill wetlands or other low lying areas previously occurred. Though the settling ponds of the wastewater facility have been filled in, piles of fill and debris remain strewn about throughout the project area.

The project site forms the northern portion of a Superfund site on the Federal National Priorities list and has been the subject of remedial actions based on its proximity to the former Midvale Slag facility. Cleanup of the northern portion of the Superfund site is nearly complete.

Based on the available information, the overall project purpose is to construct a mixed-use development. The applicant believes there is a need to develop this site. The attached drawings provide additional project details.

ADDITIONAL INFORMATION:

Environmental Setting. The project site contains 130 acres of land located next to the Jordan River. There are approximately 8.47 acres of waters of the United States within the project area. These waters include 7.01 acres of wet meadow, 0.62 acre of emergent marsh, 0.58 acre of riparian and 0.27 acre of open water habitat. The site is characterized predominantly by disturbed uplands with low quality wetlands located on the western and eastern portions of the site. The upland vegetation is mostly herbaceous species, including wildrye grass, prickly lettuce and dense stands of noxious weeds such as scotch thistle and knapweed. Cottonwood and Russian olive trees are the predominant woody species on site and are sparsely located adjacent to canals or ditches.

The property is within eyesight of I-15 and is surrounded by residential and commercial areas. The site also serves as the catch basin for stormwater from these developments. As stated above, the project site has been heavily disturbed by neighboring developments and activities in the past.

Alternatives. The applicant has provided information concerning project alternatives. The current alternatives include a full build-out of the site with an on-site mitigation area adjacent to the Jordan River and two smaller-scale master plans - one that would avoid impacting waters and develop only the upland portions of the property and another that would minimize impacts to waters by permanently filling approximately 1.58 acres of wet meadow wetlands in the southwestern portion of the property and piping about 2,700 linear feet of the existing riparian lined ditch.

Additional information concerning project alternatives may be available from the applicant or their agent. Other alternatives may develop during the review process for this permit application. All reasonable project alternatives, in particular those which may be less damaging to the aquatic environment, will be considered.

Mitigation. The Corps requires that applicants consider and use all reasonable and practical measures to avoid and minimize impacts to aquatic resources. If the applicant is unable to avoid or minimize all impacts, the Corps may require compensatory mitigation. The applicant has proposed a conceptual mitigation plan that would construct an onsite mitigation area adjacent to the Jordan River. The large wetland in the northwestern portion of the property would be enhanced through the removal of the contaminated soil and non-native/noxious weeds and regraded and replanted. Additionally, a wetland complex containing a meandering open water channel, uplands and additional wetlands would be constructed within the 12.28-acre mitigation area to compensate for the proposed permanent wetland impacts. Further, the existing levee that separates the future mitigation area from the Jordan River would be relocated and set back approximately 200 feet east of its current location. This would reestablish the river's floodplain in that area and hydrologically connect the mitigation site with the river. Precipitation and urban runoff from the area would be directed to the stormwater detention facility/park area prior to entering the reconstructed ditch what would supply water to the mitigation area.

OTHER GOVERNMENTAL AUTHORIZATIONS: Water quality certification or a waiver, as required under Section 401 of the Clean Water Act from the Utah Division of Water Quality, is required for this project. The Utah Division of Water Quality intends to issue certification, provided that the proposed work will not violate applicable water quality standards. Projects are usually certified where the project may create diffuse sources (nonpoint sources) of wastes which will occur only during the actual construction activity and where best management practices will be employed to minimize pollution effects. Written comments on water quality certification should be submitted to Mr. William O. Moellmer, Utah Division of Water Quality, 288 North 1460 West, Post Office Box 144870, Salt Lake City, Utah 84114-4870, on or before **January 19, 2006.**

An application has been submitted to the Salt Lake County Flood Control Department and to FEMA for the alteration and relocation of the Jordan River Levee.

An application has been submitted to the EPA for a contaminated soil management plan and slag remediation.

HISTORIC PROPERTIES: Based on the available information (including applicant's Class 1 file search dated November 30, 2005), cultural resources not are within the project's area of potential effect.

ENDANGERED SPECIES: The project will not affect any Federally-listed threatened or endangered species or their critical habitat that are protected by the Endangered Species Act.

The above determinations are based on information provided by the applicant and our preliminary review.

EVALUATION FACTORS: The decision whether to issue a permit will be based on an evaluation of the probable impacts, including cumulative impacts, of the described activity on the public interest. That decision will reflect the national concern for both protection and

utilization of important resources. The benefit, which reasonably may be expected to accrue from the described activity, must be balanced against its reasonably foreseeable detriments. All factors which may be relevant to the described activity will be considered, including the cumulative effects thereof; among those are conservation, economics, aesthetics, general environmental concerns, wetlands, historic properties, fish and wildlife values, flood hazards, floodplain values, land use, navigation, shoreline erosion and accretion, recreation, water supply and conservation, water quality, energy needs, safety, food and fiber production, mineral needs, consideration of property ownership and, in general, the needs and welfare of the people. The activity's impact on the public interest will include application of the Section 404(b)(1) guidelines promulgated by the Administrator, Environmental Protection Agency (40 CFR Part 230).

The Corps is soliciting comments from the public, Federal, State, and local agencies and officials, Indian tribes, and other interested parties in order to consider and evaluate the impacts of this proposed activity. Any comments received will be considered by the Corps to determine whether to issue, modify, condition, or deny a permit for this proposal. To make this decision, comments are used to assess impacts on endangered species, historic properties, water quality, general environmental effects, and other public interest factors listed above. Comments are used in the preparation of an Environmental Assessment and/or an Environmental Impact Statement pursuant to the National Environmental Policy Act. Comments are also used to determine the need for a public hearing and to determine the overall public interest of the proposed activity.

SUBMITTING COMMENTS: Written comments, referencing Public Notice 200550240, must be submitted to the office listed below on or before **January 19, 2006:**

Jason Gipson, Project Manager
US Army Corps of Engineers, Sacramento District
Utah Regulatory Office
533 West 2600 South, Suite 150
Bountiful, Utah 84010-7744
Email: jason.a.gipson@usace.army.mil

The Corps is particularly interested in receiving comments related to the proposal's probable impacts on the affected aquatic environment and the secondary and cumulative effects. Anyone may request, in writing, that a public hearing be held to consider this application. Requests shall specifically state, with particularity, the reason(s) for holding a public hearing. If the Corps determines that the information received in response to this notice is inadequate for thorough evaluation, a public hearing may be warranted. If a public hearing is warranted, interested parties will be notified of the time, date, and location. Please note that all comment letters received are subject to release to the public through the Freedom of Information Act. If you have questions or need additional information please contact the applicant or the Corps' project manager Jason Gipson, 801-295-8380, extension 22, jason.a.gipson@usace.army.mil.

Attachments: 5 drawings